

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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WOODROW FLEMMING,

Plaintiff,

vs

9:05-CV-473

STATE OF NEW YORK; LEO PAYANT,  
Superintendent; GLENN GOORD, Commissioner;  
DR. BURDICK; SGT. FLETCHER; and LT. ADMIKIS,  
Hearing Officer,  
Defendants.

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APPEARANCES:

OF COUNSEL:

WOODROW FLEMMING  
Plaintiff, Pro Se  
03-A-5259  
UpState Correctional Facility  
P.O. Box 2001  
Malone, NY 12953

HON. ELIOT SPITZER  
Attorney General of the  
State of New York  
Attorney for Defendants  
Department of Law  
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Syracuse, NY 13204-2455

MARIA MORAN, ESQ.  
Asst. Attorney General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff, Woodrow Flemming, brought this civil rights action pursuant to 42 U.S.C. § 1983. By Report-Recommendation dated August 11, 2006, the Honorable David E. Peebles, United States Magistrate Judge, recommended that the plaintiff's motion for summary judgment be denied; the motion to dismiss filed by defendants Payant, Goord,

Burdick, Fletcher, and Admikia be denied; that defendants' motion, in the alternative, for a more definite statement be granted, and that plaintiff be required to file and serve an amended complaint more clearly defining his claims and indicating the extent of each defendant's involvement in those claims; and that the motion of the State of New York be granted and that plaintiff's damage claims as against that defendant, as well as those against the remaining defendants in their official capacities be dismissed without leave to replead. No objections to the Report-Recommendation have been filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Peebles, the Report-Recommendation is accepted and adopted in its entirety. See 28 U.S.C. 636(b)(1).

Accordingly, it is

ORDERED that

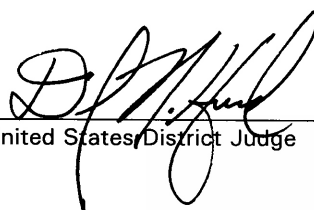
1. The plaintiff's motion for summary judgment is DENIED;
2. The motion to dismiss filed by defendants Leo Payant, Glenn Goord, Dr.

Burdick, Sgt. Fletcher, and Lt. Admikia is DENIED;

3. Defendants' motion, in the alternative, for a more definite statement is GRANTED, and plaintiff is required to file and serve an amended complaint more clearly defining his claims and indicating the extent of each defendant's involvement in those claims;

4. The motion of the State of New York is GRANTED and plaintiff's damage claims as against that defendant, as well as those against the remaining defendants in their official capacities, are dismissed without leave to replead.

IT IS SO ORDERED.

  
United States District Judge

Dated: October 12, 2006  
Utica, New York.